

**SANTANGELO Law Offices, P.C.**

125 S. Howes, 3rd Floor  
Fort Collins, CO 80521  
(970) 224-3100 FAX (970) 224-3175

#3

**FACSIMILE TRANSMISSION**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

**TO:** Ms. Anita Johnson  
Patent and Trademark Office

**FAX:** 703-305-3230 **TELEPHONE:** 703-305-3661

**FROM:** Craig Miles  
Attorney at Law

**DATE:** February 5, 2001

**TOTAL PAGES:** 22 (INCLUDING THIS COVER PAGE) X Facsimile Only

**Client Reference:** XY - Sonicator - US National Phase  
US Appl'n No. 09/622,621

**MESSAGE:**

Dear Ms. Johnson:

Per your conversation with my assistant Shannon Nation-Kammerer, please find attached a copy of our Response to Notification of Missing Requirements under 35 U.S.C. §371 which was mailed from our office on September 18, 2000 by Express Mail. The Response to Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US) also included a copy of the Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US); a new Declaration for Patent Application executed by Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson; a firm check payable to the Commissioner of Patents and Trademarks in the amount of \$65.00; a Letter of Transmittal; and Express Mail Certificates for each document as can be understood from our facsimile transmission of this date. Also attached is the stamped post card that we received back from the PTO mail room.

Thank you and please accept this facsimile for consideration of my response. If you should have any questions, please do not hesitate to contact me.

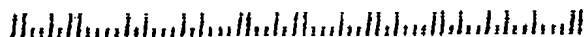
Sincerely,  
SANTANGELO LAW OFFICES, P.C.

Craig Miles



SANTANGELO LAW OFFICES, P.C.  
- 125 S. HOWES STREET, 3RD FLOOR  
FORT COLLINS, CO 80521

0521+2737



To: The Assistant Commissioner for Patents  
Box PCT, Washington, DC 20231

Express Mail No: EL627894581US Attorney Docket:XY-Sonic-USNP

Please acknowledge receipt of the following documents by applying  
your serial number and date stamp below:

A Response to Notification of Missing Requirements under 35 U.S.C.  
§371 in the United States Designated/elected Office (DO/EO/US) (2  
pages); a copy of the Notification of Missing Requirements under 35  
U.S.C. §371 in the United States Designated/elected Office (DO/EO/US)  
(2 pages); a new Declaration for Patent Application executed by  
Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C.  
Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson (8  
pages); a firm check payable to the Commissioner of Patents and  
Trademarks in the amount of \$65.00; a Letter of Transmittal; and  
Express Mail Certificates for each document.

Date:

416 Rec'd PCT/PTO 1 8 SEP 2000  
on

*Express Mail No:*EL696071118US  
*Attorney Docket:*XY-Sonic-USNP

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

Examiner: BUCHANAN

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**LETTER OF TRANSMITTAL**

Assistant Commissioner for Patents  
BOX PCT  
Washington, D.C. 20231

Sir:

Enclosed for filing is a Response to Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US) including the following documents:

1. A Response to Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US);
2. a copy of the Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US);
3. a new Declaration for Patent Application executed by Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson;

4. a firm check payable to the Commissioner of Patents and Trademarks in the amount of \$65.00;
5. this Letter of Transmittal; and
6. Express Mail Certificates for each document.

**Please address all future correspondence to: Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, CO 80521.**

*I have this 18 day of September, 2000, either myself personally or through my direction of staff at this office, deposited all of the items in the above letter of transmittal with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: The Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.*

Dated this 18 day of September, 2000.

Respectfully Submitted,

SANTANGELO LAW OFFICES, P.C.

By: 

Craig R. Miles

ATTORNEY FOR APPLICANT

PTO No. 45,954

125 South Howes, Third Floor

Fort Collins, Colorado 80521

(970) 224-3100

*Express Mail No:EL696071118US**Attorney Docket:XY-Sonic-USNP*

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. FergusonSerial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

Examiner: BUCHANAN

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**CERTIFICATE OF EXPRESS MAILING**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached firm Letter of Transmittal and a firm check in the amount of \$65.00 with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.

*Express Mail No: EL696071118US*  
*Attorney Docket: XY-Sonic-USNP*

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
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For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

Examiner: BUCHANAN

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**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.  
§371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The Notification of Missing Requirements under 35 U.S.C. §371, mailed September 6, 2000 (copy attached) requested:

- i) that the applicant furnish a new oath or declaration executed in accordance with 37 C.F.R. §1.66 or 37 C.F.R. §1.68;
- ii) provide a copy of the Notification of Missing Requirements; and
- iii) pay a surcharge for submitting the oath or declaration later than 20 or 30 months from the priority date.

**REMARKS**

The applicant submits an Oath or Declaration executed in accordance with 37 C.F.R. §1.66 or 37 C.F.R. §1.68 having each inventor's name appearing on the Declaration within one month from the date of the Notice along with the appropriate surcharge of \$65.00 (small entity status) and a copy of the Notification of Missing Requirements.

**CONCLUSION**

The applicant believes this response addresses all outstanding requirements and should place the application in a condition for complete examination.

Dated this 12 day of September, 2000.

Respectfully submitted,

SANTANGELO LAW OFFICES, P.C.

BY: 

Craig R. Miles

Attorney for Applicant

PTO No. 45,954

125 South Howes, Third Floor

Fort Collins, CO 80521

(970) 224-3100

*Express Mail No.* EL696071118US  
*Attorney Docket:* XY-Sonic-USNP

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

Examiner: BUCHANAN

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**CERTIFICATE OF EXPRESS MAILING**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.


2. I have this day deposited the attached Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.

Shannon N. Nation-Kammerer



09/622621



UNITED STATES DEPAR. ENT C OMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Bldg PCT  
Washington, D.C. 20231

APPLICATION NO

FIRST NAMED APPLICANT

ATTY DOCKET NO

SANTANGELO LAW OFFICES  
125 SOUTH HOWES THIRD FLOOR  
FORT COLLINS CO 80521

SELL

PCT/US99/00638

INTERNATIONAL APPLICATION NO

02/19/99

12/20/98

I.A. FILING DATE

PRIORITY DATE

05/27/01

DATE MAILED: 06 SEP 2000

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),
- ☒ an Elected Office (37 CFR 1.495)
- ☒ \$ Basic National Fee
- ☒ Copy of the international application in:
  - ☐ a non-English language.
  - ☒ English
- ☒ Translation of the international application into English.
- ☒ Oath or Declaration of inventor(s) for DO/EO/US
- ☐ Copy of Article 19 amendments.
- ☐ Translation of Article 19 amendments into English.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.
- ☒ Preliminary amendment(s) filed 18 Aug 2000 and \_\_\_\_\_
- ☒ Information Disclosure Statement(s) filed 18 Aug 2000 and \_\_\_\_\_
- ☒ Assignment document
- ☐ Power of Attorney and/or Change of Address
- ☐ Substitute specification filed \_\_\_\_\_
- ☐ Statement Claiming Small Entity Status.
- ☐ Priority Document
- ☒ Copy of the International Search Report ☐ and copies of the references cited therein.
- ☐ Other:

The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371

- ☐ a Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
    - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation
  - ☐ b Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
  - ☐ c Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.
    - ☒ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917
  - ☒ d Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
3. Additional claim fees of \$ \_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)) See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a)

- 4. Translation of the Annexes MUST be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
- 5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(b)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation

☒ PTO-875

FORM PCT/DO/EO/905 (December 1997)

*Carla Johnson*  
Telephone: (703) 305-3661

BEST AVAILABLE COPY



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

09/622621

US APPLICATION NO. 09/622621	EXAMINER	FIRST NAMED APPLICANT	ATTY. DOCKET NO. 09/622621	US.NP
SANTANELLO LAW OFFICES 125 SOUTH HAWES THIRD FLOOR FORT COLLINS CO 80521				
INTERNATIONAL APPLICATION NO. PCT/US99/006081				
LA. FILING DATE		PRIORITY DATE		
02/19/99		02/20/98		
DATE MAILED: 02/06/00				

NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. ☒ is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
2. ☐ does not identify the specification to which it is directed.
3. ☐ does not identify the inventor(s).
4. ☐ does not identify the citizenship of each inventor.
5. ☐ does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or city and foreign country of residence of each inventor.
2. ☐ does not state that the person making the oath or declaration:
  - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
  - b. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation in part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).

5. ☒ EACH INVENTORS NAME SHOULD  
appear on each declaration *Amata Johnson*  
Telephone: 703 305-3661

BEST AVAILABLE COPY

Express Mail No:EL696071118US  
Attorney Docket:XY-Sonic-USNP

**IN THE UNITED STATES PATENT AND  
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In Re the Application of:

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2. I have this day deposited the attached a copy of the Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US); with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.

